APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,469	04/23/2001	Rodger Williams	2400-667	1931

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EXAMINER
SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	**Application No.**		**Applicant(s)**
	09/840,469		WILLIAMS ET AL.
	Examiner		**Art Unit**
	Jeffrey A. Shapiro		3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 August 2003</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,4-9,11-21 and 28-33</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,4-9,11-21 and 28-33</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1, 4-9, 11-21, and 28-33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Finley et al (US 6,442,448 B1) in view of Irons et al (US 6,427,032

B1) and further in view of Golden et al (US 6,452,924). Finley et al discloses the

following.

As described in Claims 1, 13, 14 and 20;

      1.   a plurality of displays (361) with associated input devices (see

figure 8, element 360, for example);

      2.   a display controller (360) associated with said plurality of displays,

said display controller comprising as follows;

            a.   communication electronics (361 and 363) for communicating

with a server (380) running a control application (379);

            b.   a control system associated with said communication

electronics and adapted to;

                  i.   run browser applications (see col. 7, lines 1-10) for

each of said plurality of displays;

> ii.   receive input from each of said input devices and
>
> provide the input to the control application (see abstract, for
>
> example);
>
> iii.   receive instructions for said browser applications from
>
> the control application (see col. 8, lines 1-27);

As described in Claims 4 and 28;

> 3.   said displays are mounted in a kiosk (note that one of the fuel
>
> dispensers (100) can be reasonably construed as a kiosk);
>
> 3a.   said plurality of displays and said display controllers are associated
>
> with a kiosk; (Note that even the displays and controllers associated with
>
> the service manager (SM 300) are associated with the kiosk (fuel
>
> dispenser) because they are connected to said kiosk by a wire or other
>
> communications means.)

As described in Claims 5, 16 and 29;

> 4.   a server (380) remote from said display controller and adapted to
>
> run said control application;

As described in Claims 6, 16 and 30;

> 5.   said server is further adapted to run a web server application
>
> configured to provide content to the browser applications of the display
>
> controller (see col. 3, lines 27-31);

As described in Claims 7, 17 and 31;

6.   said control application is adapted to process the input and provide

certain of the instructions for a corresponding one of the browser

applications (see col. 8, lines 12-15);

As described in Claims 8, 18 and 21;

7.   said control application is adapted to provide certain of the

instructions for a corresponding one of the browser applications based on

events or instructions unrelated to the input (note, for example, that the

SM300 controller "accumulates network-wide event information"—see col.

8, lines 1-27);

As described in Claims 9, 15 and 32;

8.   for each of said browser applications, said control system is further

adapted to provide a request for content from a web server based on the

instructions;

9.   receive content in response to the request;

10.   display content on a corresponding one of said plurality of displays;

(Note that the SM300 controller "coordinates scheduled updates with the

dispenser, for example. See col. 8, lines 1-27. Another example would be display of

sale items as well as news and weather. See col. 6, lines 15-21.)

As described in Claims 1, 13, 14 and 20;

11.   said display controller is assigned one Internet Protocol (IP)

address and each of the browser applications is assigned a unique port

associated with the IP address (see col. 6, lines 50-62);

As described in Claim 11;

    12.   said input devices include keys on at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 12;

    13.   said input devices include touch screen configuration for at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 13;

    14.   said communication electronics are wireless communications electronics adapted to provide wireless communications with the server (Note that figures 5-7 illustrate a phone line (POTS) which inherently may be accessed by wireless (cell) phone. Note also figure 14, which illustrates site manager (1401) as having a satellite dish labeled as "Hughes".)

As described in Claim 19;

    15.   effecting control of a peripheral at the first location with instructions from the second location (see col. 8, lines 1-27 and col. 3, lines 27-31);

As described in Claim 33;

    15a.   said input devices includes keys on at least one of said plurality of displays (see Finley, col. 1, lines 63-end and col. 2, lines 1-2, which describes that using keypads for special user inputs is well-known in the art);

Finley et al does not expressly disclose, but Irons et al discloses using a multi-user environment. See for example, figures 1 and 2, col. 10, lines 1-12 col. 11, lines 60-67 and col. 12, lines 1 and 2.

Finley et al does not expressly disclose, but Golden et al discloses the following.

As described in Claims As described in Claims 1, 13, 14 and 20;

> 2a.   *said display controller further assigned one Internet Protocol (IP)*
> *address and each of the browser applications is assigned a unique port*
> *associated with the IP address;* (See col. 48, lines 57-61, col. 49, lines 8-30, col. 50, lines 24-46, col. 52, lines 38-45, and line 20-34.)

Both Finely and Golden are analogous art because Finley discloses using a TCP/IP network for communicating between parts of the fuel dispensing system, including a display controller, and Golden discloses controlling bandwidth in a multipoint/multimedia network.

Both Finely and Irons are analogous art because they both concern a computing environment with dispensers.

At the time of the invention it would have been obvious to have used Windows NT in place of Windows CE in the device of Finely. The suggestion/motivation would have been to provide a multi-user environment to be able to handle many users or only a limited number of users and devices attached to a network. See Irons, col. 11, lines 60-67 and col. 12, lines 1 and 2.

At the time of the invention it would have been obvious to one ordinarily skilled in

the art to have assigned an IP address to the display controller and a unique port

address to the browser associated with the IP address.

The suggestion/motivation would have been to "allow the transport of Internet

Protocol (IP) data that could be used to encapsulate Transaction Control Protocol (TCP)

messaging." See col. 6, lines 53-62 of Finely. Also note col. 48, lines 57-61 of Golden,

stating that "[g]rouping of circuits into Internet sublets is an important feature of the

invention and allows a uniform routing schema that is independent of the type of

connection that needs to be established (i.e., packet-switched or circuit-switched)."

Therefore, it would have been obvious to combine Finely, Irons and Golden to

obtain the invention as described in Claims 1, 4-9, 11-21, and 28-33.

Double Patenting

5.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be
used to overcome an actual or provisional rejection based on a nonstatutory double
patenting ground provided the conflicting application or patent is shown to be commonly
owned with this application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

6.   Claims 1, 4-9, 11-21, and 28-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-27 of U.S. Patent No. 6,052,629. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

7.   Claims 1, 4-9, 11-21, and 28-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-39 of U.S. Patent No. 6,176,421. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

Response to Arguments

8.   Applicant's arguments filed 8/1/03 have been fully considered but they are not persuasive.

Applicant's also directed to the Microsoft Press Computer Dictionary, 3rd edition, published in 1997, which states that a port number enables IP packets to be sent, and that in some cases, such as telnet sessions, an "ephemperal" port number is assigned to begin with and goes out of use at the end of the session. This is also known as dynamic addressing. See the "port number" entry as well as "video adapter" and "socket" entries.
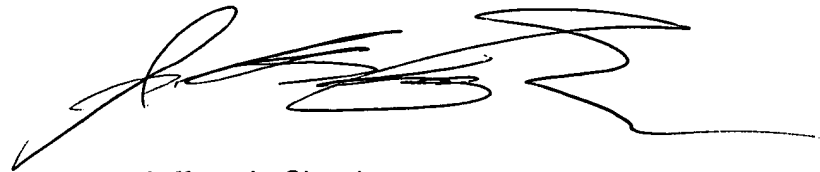
Therefore, Claims 1-9, 11-21 and 28-33 are rejected.

Applicant's are encouraged to contact the Examiner should there be any further questions or concerns.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

Jeffrey A. Shapiro
Examiner
Art Unit 3653

October 20, 2003

DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
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